

DEPARTMENT OF SOCIAL SERVICES

744 P STREET, SACRAMENTO, CALIFORNIA 95814



September 7, 1999

ALL-COUNTY LETTER NO. 99-63

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY CHILD CARE COORDINATORS
 ALL ALTERNATIVE PAYMENT PROGRAM
 PROVIDERS
 ALL RESOURCE AND REFERRAL AGENCIES
 ALL LOCAL PLANNING COUNCILS

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation Change
 Court Order or Settlement Agreement
 Clarification Requested by One or More Counties
 Initiated by CDSS

SUBJECT: PUBLICATION OF CALIFORNIA WORK OPPORTUNITY AND
 RESPONSIBILITY TO KIDS (CalWORKs) CHILD CARE
 REGULATIONS

REFERENCE: AB 2779, CHAPTER 329, STATUTES OF 1998; SB 933, CHAPTER
 311, STATUTES OF 1998, AB 2772, CHAPTER 902, STATUTES OF
 1998, ACL 97-73, ACL 98-46

The purpose of this notice is to inform County Welfare Departments (CWD), Alternative Payment Program (APP) providers and Resource and Referral (R&R) agencies of the publication of final regulations for the CalWORKs Stage One Child Care Program. These regulations became effective on August 9, 1999.

Most of the provisions in the regulations effective August 9, 1999 contain the same policies as found in the emergency CalWORKs Stage One Child Care regulations filed on December 28, 1998. The following summarizes the major changes in the child care regulations:

- A new section (47-301.1) requires counties to inform families about the availability of child care subsidies when needed because of employment or participation in CalWORKs.
- An amendment to Section 47-420.32 requires child care to continue at the same amount when a client has filed a timely request for a state hearing, except when the basis of appeal involves the health and safety of the child.
- The requirement in Section 47-201.12 that child care be provided for non-assistance unit (AU) members and the inclusion of Handbook examples.
- A repeal of Section 47-401.22 that prohibited retroactive payments for child care.

The attached chart outlines all of the changes made in the final regulations. The above changes appear in bold type. If you have any questions about the information in this letter, please contact your CalWORKs Child Care Program Analyst or call the Child Care Bureau at (916) 657-2144.

Sincerely,

***Original Document Signed by Bruce Wagstaff
on September 3, 1999***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Branch

Attachments

SUMMARY OF CHANGES TO THE CalWORKs CHILD CARE REGULATIONS

Section	Title	Changes
44-111.3(f)	Child care payments to recipients	Exempts from consideration as income, payments for child care to recipients, as employers of in-home providers.
47-101.2	Intent Language	More inclusive summary of legislative intent for the CalWORKs child care program.
47-101.4	Administration of Stages	Adds distinction that counties are supervised by CDSS and other minor wording changes
47-101.7	Stage Two	Specifies when Stage Two <u>may begin</u> .
47-110(a)(2)	Assistance Unit	Adds new definition of Assistance Unit
47-110(c)(1)	Child Care	Adds reference to licensing regulations
47-110(c)(2)	Co-Payment	Adds distinction between co-payment and family fee
47-110(f)(1)	Family Fee	
47-110(e)(2)	Exempt from Licensing	Adds reference to licensing regulations
47-110(f)(2)	Former Recipient	Removes words “before applying for CalWORKs child care” and adds the word “prior” to clarify that there is no formal application process for child care.
47-110(l)(1)	Licensed Provider	Adds reference to licensing regulations
47-201.11	AU Members	Adds word “benefits” after “foster care”; corrects reference to acronym SSI/SSP.
47-201.12	Child Care for Non AU Members	Removes county option and makes child care mandatory for non AU members. Restructures into 3 subsections and two Handbook examples.
47-201.23	Court Supervision	Adds WIC Sec. 300 and 301 to list of children age 11 and older that can receive child care up to age 18 if under court supervision (includes foster care children who are abused.)
47-220.1	Categorical Eligibility	Specifies that cash aid recipients are eligible for CalWORKs child care because the <u>participant</u> receives aid.
47-220.22	Availability of Care	Specifies that CalWORKs child care is not provided if there is an <u>adult</u> member of AU who is <u>able and available</u> to provide care.
47-220.331	Former Recipients in Stage One	Replaces the word “funding” with “child care”: (If <u>child care</u> is not available)
47-332(a)	Stage One Time Limits	Repeals this section; moved to 47-230.14.
47-230.12	Eligibility for Former Recipients	Changes internal reference in the regulations.
47-230.14(new)	Time Limits	Moved from 47-332(a) and restructured into three subsections.
47-230.21 and .22	SSI/SSP	Corrects reference of the acronym

SUMMARY OF CHANGES TO THE CalWORKs CHILD CARE REGULATIONS

Section	Title	Changes
47-260.13	Health and Safety	Requirements for Providers: adds reference to Trustline and Health and Safety Regs 47-600.
47-301.1(new)	County Responsibility	Requires counties to make available to families child care subsidies and ensure that families have access to child care subsidies whenever the need for child care occurs as a result of employment or participation in any county-approved activities.
47-301.1 to .71	Renumbering only	Re numbers these sections accordingly
47-301.3	Information Sharing	Adds clarification on purpose of sharing the information. Adds that information may be shared with outside entities (advocates) if client consents in writing.
47-301.33	Time Limits in Stage One	Deletes this section which is redundant. Is already contained in 47-230.14.
47-301. 42	Extension of Six-Month Limit	Removes option, requiring counties to extend Stage One time limit for lack of stability or slots in Stages Two or Three.
47-320.1	County Responsibility	Information Collection: Adds cross-reference to information collection for case record in Section 40-126.35.
47-401.11	Payment Basis (Calculating Payments)	Removes erroneous Handbook designation. Changes word, "may" to "shall".
47-401.22	Retroactive Payment	Repeals section that prohibited retroactive payment for child care prior to date of applying for or requesting child care.
47-401.52	Child care in other subsidized programs	Adds "other required activities" to exceptions in which counties may pay for duplicate care (covers miscellaneous family emergencies.)
47-420.3	Notices for Payment	Adds the references to the Hearings Regulations on notifying clients of changes to child care subsidies.
47-420.32	Aid Paid Pending	Allows child care to be paid pending the timely filing of an appeal <u>except</u> when basis of appeal is health and safety of child including failure of provider to meet health and safety or Trustline requirements, or if provider is denied payment because of violent felonies.
47-420.4	Denial of Payment	Corrects spelling error. Adds reference to Penal Code cites.

CalWORKs Child Care Regulations

Repeal Sections 40-107.14 and .141 to read:

40-107 COUNTY RESPONSIBILITY (Continued)

40-107

.1 (Continued)

.15 (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11268, 11324.8(a) and (f)(1), AB 312, Chapter 1568, Statutes of 1990, 11500(b), 11502(b), and 11511(a), Welfare and Institutions Code; 42 USC Sections 682(c)(2), (3), (4) and (5); 45 CFR 205.42(d)(2)(v)(A) and (B) as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 205.55; 45 CFR 250.20; 45 CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; 45 CFR 256.1(b), and California Department of Health Services Manual Letter 77-1.

CalWORKs Child Care Regulations

Repeal Section 40-173.8 et seq. to read:

40-173 COUNTY DEPARTMENT RESPONSIBILITY FOR NOTIFYING
APPLICANTS AND RECIPIENTS (Continued)

40-173

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10613, 11209, 11500(b), 11502(a) and (b), and 11511(a), Welfare and Institutions Code; 45 CFR 250.20; 45 CFR 250.40(b); 45 CFR 255.1; 45 CFR 256.1(b); 45 CFR 256.2(b)(1); 45 CFR 256.4(c); and Administration for Children and Families-Action Transmittal-91-1, dated June 16, 1992; and Section 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193); California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996.

CalWORKs Child Care Regulations

1) Repeal Sections 44-111.3f., g., and h. to read:

2) Adopt Section 44-111.3f. to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME (Continued) 44-111

.3 Exemption of Payments from Public Sources (Continued)

f. Payments made by CalWORKs for child care costs pursuant to Section 47-420.2.

fg. through i. (Reserved)

j. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11008.15, 11280, and 11451.7, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 8, Public Law 93-134; Section 2, Public Law 98-64; Section 13736, Public Law 103-66; Section 1, Public Law 100-286, Section 202(a), Public Law 100-485 and 20 USC 1087uu; 45 CFR 233.20(a)(3)(iv)(B), (a)(3)(xxi), 45 CFR 233.20(a)(4)(ii); (a)(4)(ii)(d); 45 CFR 233.20(a)(4)(ii)(p) and (q); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994; Federal Action Transmittals ACF-AT-94-27 and 94-4 and FSA-IM-89-1.

CalWORKs Child Care Regulations

Repeal Entire Chapter 44-500 (Sections 44-501 through 44-509):

CHAPTER 44-500 SUPPLEMENTAL CHILD CARE (SCC) PROGRAM [REPEALED]

CHILD CARE [REPEALED]	INTRODUCTION TO SUPPLEMENTAL	44-501
	DEFINITIONS [REPEALED]	44-502
PROGRAM ELIGIBILITY [REPEALED]		44-503
	PAYMENT ELIGIBILITY [REPEALED]	44-504
	PAYMENT COMPUTATION [REPEALED]	44-505
RECIPIENT RESPONSIBILITIES [REPEALED]		44-506
	COUNTY RESPONSIBILITIES [REPEALED]	44-507
	UNDERPAYMENTS AND OVERPAYMENTS [REPEALED]	44-508
	DATA COLLECTION [REPEALED]	44-509

CalWORKs Child Care Regulations

Repeal Entire Chapter 47-100 (Sections 47-101 through 47-190):

CHAPTER 47-100 TRANSITIONAL CHILD CARE [REPEALED]

47-101 INTRODUCTION TO TRANSITIONAL CHILD CARE [REPEALED]	47-101
47-102 DEFINITIONS [REPEALED]	47-102
47-105 APPLICANT RESPONSIBILITIES [REPEALED]	47-105
47-110 COUNTY RESPONSIBILITIES [REPEALED]	47-110
47-120 PROGRAM ELIGIBILITY [REPEALED]	47-120
47-125 ELIGIBILITY PERIOD [REPEALED]	47-125
47-130 FAMILY FEE DETERMINATION [REPEALED]	47-130
47-140 ELIGIBLE PROVIDERS [REPEALED]	47-140
47-145 PAYMENT ELIGIBILITY [REPEALED]	47-145
47-150 PAYMENT INELIGIBILITY [REPEALED]	47-150
47-155 PAYMENT DETERMINATION [REPEALED]	47-155
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47-180 INTERCOUNTY TRANSFER PROCEDURE - COUNTY RESPONSIBILITY [REPEALED]	47-180
47-185 INTERCOUNTY TRANSFER PROCEDURE - TCC FAMILY RESPONSIBILITY [REPEALED]	47-185
47-190 ERRONEOUS PAYMENTS [REPEALED]	47-190

CalWORKs Child Care Regulations

1) Rename Division 47, and Adopt Chapter 47-100 and Section 47-101 to read:

2) Amend Section 47-101 to read:

DIVISION 47 CalWORKs CHILD CARE

CHAPTER 47-100 The Stage One Child Care Program

47-101 Introduction to the Stage One Child Care Program

47-101

HANDBOOK BEGINS HERE

.1 Introduction

The Thompson-Maddy-Ducheny-Ashburn Welfare- to-Work Act of 1997 (Assembly Bill (AB) 1542, Chapter 270, Statutes of 1997) established the California Work Opportunity and Responsibility to Kids (CalWORKs) Program. CalWORKs replaced the Aid to Families with Dependent Children (AFDC) Program and the Greater Avenues for Independence (GAIN) Program. CalWORKs also replaced a number of separate welfare-related child care programs. These include: GAIN child care, Non-GAIN Education and Training (NET) child care, CalLearn Child Care, Supplemental Child Care (SCC), Transitional Child Care (TCC), the California Alternative Assistance Program (CAAP), the At-Risk Child Care Program, and the child care earned income disregard programs.

.2 Intent of the Child Care Program

It is the intent of the Legislature that CalWORKs recipients, and former recipients are connected as soon as possible to local child care resources, make stable child care arrangements, and continue to receive subsidized child care services after they no longer receive aid as long as they require those services and meet the specified eligibility requirements.

In order to move welfare recipients and former recipients from their relationship with county welfare departments to relationships with institutions providing services to working families, it is the intent of the Legislature that families that are former recipients of aid, or are transitioning off aid, receive their child care assistance in the same fashion as other low-income working families.

CalWORKs Child Care Regulations

Therefore, it is the intent of the Legislature that families no longer rely on county welfare departments to obtain child care subsidies beyond the time they are receiving other services from the welfare department. The Legislature intends that counties quickly move recipients out of the first stage of child care after the county determines stability.

In addition, the Legislature intends in enacting this article to provide sufficient funding through an appropriation in the annual Budget Act to fund the estimated cost of providing child care for all individuals who are anticipated to need child care to participate in the welfare-to-work programs and to transition to work.

It is further the intent of the Legislature to ensure that the implementation of Public Law 104-193 does not result in unanticipated outcomes that negatively affect child well-being.

.3 The Goal of the Child Care Program

The goal of the Child Care Program is to provide child care through a seamless system by standardizing child care program requirements under a single three-stage system.

.4 Administration of Stages

Stage One child care is administered by the counties and supervised by the Department of Social Services. Stages Two and Three ~~programs~~ are administered by Alternative Payment Programs (APP) contracting with the California Department of Education (CDE). California Community Colleges also provide child care services to ~~Stage One~~ CalWORKs participants.

.5 Child Care Partnerships

It is the intent of the Legislature that families experience no break in their child care services due to a transition between the three stages of child care. To assure this, the California Department of Social Services (CDSS), CDE and the Chancellor's Office of the California Community Colleges (COCCC) work in collaboration to develop state policy and strategies that will aid in streamlining the program. At the local level, the counties, the Resource and Referral (R&R) Program, the Alternative Payment Program (APP), and the

CalWORKs Child Care Regulations

Local Planning Council (LPC) work together to assure that local policies and procedures provide for a smooth transition between the three stages of child care.

- .6 Stage One Child Care Stage One begins upon the entry of a person into the CalWORKs assistance program. A family may receive a child care subsidy for any legal child care chosen by the client.
- .7 Stage Two Child Care Stage Two may begins when child care is available through a local Stage Two program and: the county determines stability; or when a recipient is transitioning off of aid.
- .8 Stage Three Child Care Stage Three begins when a funded space is available for a CalWORKs child care client, a Diversion client, or an employed former CalWORKs client.
- .9 Extent of ~~These Regulations~~ Division 47 ~~These regulations~~ Division 47 covers only Stage One child care and transition from Stage One.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 9858 et seq.; 42 U.S.C. 9858c(c)(2)(H); AB 1542, Chapter 270, Statutes of 1997; Budget Act: AB 107, Chapter 282, Statutes of 1997, Item 6110-196-0001, Provisions 13 and 14, and Item 6870-101-001, Provision 16(c); Sections 8350 thru 8359.1, and 79202, Education Code; and Section 11323.8, Welfare and Institutions Code.

CalWORKs Child Care Regulations

1) Adopt Section 47-110 to read:

2) Amend Section 47-110 to read:

<u>47-110</u>	<u>Definitions</u>	<u>47-110</u>
(a) (1)	Alternative Payment Program	"Alternative Payment Program (APP)" means an agency that contracts with the California Department of Education, in addition to other activities, to make payments to another agency or child care provider for the provision of child care and development services.
(a) (2)	<u>Assistance Unit</u>	<u>"Assistance Unit" means a group of related persons living in the same home who have been determined eligible for CalWORKs cash assistance. [See Section 80-301(a)(9)]</u>
(b)	Reserved	
(c) (1)	Child Care	"Child Care" means care and supervision of a child <u>as specified in the California Code of Regulations, Title 22, Division 12, Section 101152c.(2).</u>
(2)	Co-payment	"Co-payment" means the amount the client is responsible to pay, if she or he chooses a child care provider who charges a fee higher than the maximum payment rate specified in Section 47-401.1. <u>The co-payment is distinct from the family fee, as defined in Section 47-110(f)(1).</u>
(3)	Child Care Provider	Child care provider" means a person or organization that provides child care services.
(4)	Client	"Client" means an applicant for or recipient of CalWORKs cash assistance, a former CalWORKs client, a recipient of diversion payments or services, and/or a Cal-Learn teen, who receives or is eligible to receive child care through the CalWORKs child care program.

CalWORKs Child Care Regulations

- (5) Commute Hours "Commute hours" means the time it takes for the client to travel from the child care provider to the activity or activities for which child care is being provided and from there back to the child care provider.
- (d) Reserved
- (e) (1) Eligibility List "Eligibility List" means a waiting list for admission to state and federally subsidized child development services administered by the California Department of Education.
- (2) Exempt From Licensing or License-Exempt "Exempt from licensing" or "license-exempt" means that a child care provider is not required to obtain a child care license, as specified in the California Code of Regulations, Title 22, Division 12, Section 101158.
- (f) (1) Family Fee "Family fee" means the amount, if any, that the client shall be required to pay towards his or her child care costs, based on the fee schedule established by the State. The family fee is distinct from the co-payment, as defined in Section 47-110(c)(2).
- (2) Former CalWORKs Client "Former CalWORKs client" means an individual who received cash aid under AFDC or CalWORKs in the prior 24 months before applying for CalWORKs child care and needs child care to continue his or her employment or fulfill his or her county-approved program activity.
- (g) Reserved
- (h) Reserved
- (i) Reserved
- (j) Reserved
- (k) Reserved

CalWORKs Child Care Regulations

- (l) (1) Licensed Provider "Licensed Provider" means an individual or organization that has obtained a child care license, as specified in the California Code of Regulations, Title 22, Division 12.
- (m) Reserved
- (n) Reserved
- (o) (1) Overpayment "Overpayment" means payments for child care services in excess of the amount which either the client or the child care provider is eligible to receive.
- (p) Reserved
- (q) Reserved
- (r) (1) Registration Fee "Registration Fee" means a one-time or periodic service or application fee charged by a child care provider.
- (2) Resource and Referral Program "Resource and Referral Program (R & R)" means a program that provides information and referrals for child care, information and referrals for community services, and coordination of community resources.
- (s) Reserved
- (t) Reserved
- (u) (1) Underpayment "Underpayment" means payments for child care services that are less than the amount which either the client or the child care provider is eligible to receive.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 9858 et seq.; 42 U.S.C. 9801 Note (b)(4); 42 U.S.C. 9858c(c)(2)(H); 42 U.S.C. 9858c(c)(2)(A) and (c)(5); 42 U.S.C. 9858e; 42 U.S.C. 9858n; 45 CFR 98.15~~(h)~~(a)(3); 45 CFR 98.20(b)(3); 45 CFR 98.30; 45 CFR 98.42; Sections 8208, 8208.1, 8263, 8264, 8354 and 8357, Education Code; Section 1596.792, Health and Safety Code; Sections 11320.3, 11323.2, 11323.4, and 11324, Welfare and Institutions Code; Budget Act: AB 107, Chapter 282, Statutes of 1997, Item 6110-196-0001, Provision 9, and Item 6870-101-001, Provision 16(c).

CalWORKs Child Care Regulations

1) Adopt Chapter 47-200 and Section 47-201 to read:

2) Amend Section 47-201 to read:

CHAPTER 47-200 Stage One Child Care Eligibility

47-201

Eligible Children

47-201

.1 Eligible Child

A child that is eligible to receive Stage One child care services shall:

.11 Assistance Unit Members

Be a member of the assistance unit; or would be a member of the assistance unit but for the receipt of foster care benefits or State Supplemental Security Income/Social Security Payments State Supplemental Program (SSI/SSP) benefits; or be the child of a Cal-Learn Participant; or be a member of a family with a former CalWORKs client who has become employed.

.12 Non-Assistance Unit Members

~~At the option of the county, be a child that is not in the assistance unit, but for the lack of child care for this child, the client would not be able to participate in approved CalWORKs or Cal-Learn activities or employment.~~

Be a child that is:

.121 Membership

Not in the assistance unit;

.122 Effect on Participation

One for whom the lack of child care would result in the client not being able to participate in approved CalWORKs or Cal-Learn activities or employment; and

.123 Responsibility for Child

One whom the client is responsible to support.

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.124 Example 1

A single parent requests CalWORKs Stage One child care both for her children and her sister's unaided children who are residing with her while her sister is in jail. The children's father is absent. In this case

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the sister's children meet the requirement in Section 47-201.123, that is, children whom the client is responsible to support.

.125 Example 2

A single parent requests CalWORKs Stage One child care both for her children and the children of her unaided unmarried boyfriend living in the home. The unmarried boyfriend is employed. He is unable to provide care for his children during his hours of employment. In this case the boyfriend's children do not meet the requirement in Section 47-201.123, that is, children whom the client is responsible to support.

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|-----|------------------------|---|
| .2 | Age Requirements | The child shall not exceed the age specified in Section 42-101 and shall be: |
| .21 | Age Limit | 10 years of age or younger; or |
| .22 | Disabled | 11 years of age or older and require child care or supervision because she or he is physically or mentally incapable of caring for herself or himself based on a written statement of a physician or licensed or certified psychologist or receipt of SSI/SSP; or |
| .23 | Court Supervision | 11 years of age or older and be under court supervision as specified in Welfare and Institutions Code Section <u>300, 301, 601 or 602.</u> |
| .3 | Other Age Requirements | The child shall be: |
| .31 | Age 11 or 12 | 11 or 12 years of age to the extent funds are available. |

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 609(a)(3); 45 CFR 98.20(a)(1)(ii); ~~Section 8452, Education Code;~~ Sections ~~601, 602,~~ 10540.5, 10544, 11320.3, and 11323.2, Welfare and Institutions Code.

CalWORKs Child Care Regulations

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- .33 Former CalWORKs Clients Who Have Become Employed Former CalWORKs clients who have become employed are eligible for child care services in Stage Three.
- .331 Child Care Services for Former CalWORKs Clients in Stage Two If ~~funding~~ child care is not available in Stage Three, former CalWORKs clients receive child care services in Stage Two.

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- .332 Child Care Services for Former CalWORKs Clients in Stage One Former CalWORKs clients shall receive child care services in Stage One when child care services are not available in Stage Two or Three child care.
- ~~(a) Time Limits~~ Former CalWORKs clients are eligible to receive child care services in Stage One and any subsequent child care in Stage Two for a total of no more than 24 months after they leave cash aid or until they are otherwise ineligible within that 24-month period. This requirement of the two-year limit is not intended to limit eligibility for child care under Stage Three.

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- .34 Clients Receiving Lump-Sum Diversion Payments or Services in Stage Three Clients receiving Lump-Sum Diversion Payments or Services, as specified in Section 81-215, are eligible for child care services in Stage Three. If Stage Three child care or other subsidized child care is not available, diversion clients may be served in Stage Two child care.
- .341 Lump-Sum Diversion Payment that Includes Child Care The lump-sum diversion payment may include funds to cover child care services during the period of diversion as specified in Section 81-215.

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- .4 Two-Parent Families Two-parent families, even if they do not meet the 55 hours of participation per week in CalWORKs activities shall receive child care services, if otherwise eligible.

CalWORKs Child Care Regulations

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 601 et seq.; 42 U.S.C. 607(c)(1)(B)(ii); 42 U.S.C. 609(a)(3); 42 U.S.C. 9858i(a)(2)(A); 42 U.S.C. 9801 Note (b)(4); Sections 8263, 8350.5, 8351(c), 8353, 8354 and 8357, Education Code; Sections 10540, 10544, 11266.5, 11320.3, 11322.8, 11323.2, ~~11323.3~~ and 11323.8, Welfare and Institutions Code.

CalWORKs Child Care Regulations

- 1) Adopt Section 47-230 to read:
- 2) Amend Section 47-230 to read:

47-230	ELIGIBLE FORMER CALWORKS CLIENTS	47-230
.1	Child Care Services for Former CalWORKs Clients	Former CalWORKs clients shall receive Stage One child care if:
.11	Availability of Child Care	Child care services are not available in Stages Two or Three, and
.12	Eligibility	The client meets the requirements of Sections <u>47-220.2 through 47-220.213</u> , and
.13	Income and Family Size	The family meets the requirements of Education Code Sections 8263 and 8263.1 and California Code of Regulations, Title 5, Sections 18078(a), (g), and (l), and 18100(a) and (b). , and
.14	<u>Time Limits</u>	<u>Not more than 24 months have elapsed since the client left cash aid.</u>
.141	<u>Application of Time Limit</u>	<u>The 24-month limit applies to each instance of leaving cash aid.</u>
.142	<u>Applicability to Stage One and Stage Two</u>	<u>Child care services in Stage One and Stage Two combined shall not exceed 24 months after leaving cash aid.</u>
.143	<u>Applicability to Other Eligibility Requirements</u>	<u>The 24-month limit shall apply unless the client becomes otherwise ineligible within the 24-month period.</u>
.144	<u>Applicability to Stage Three</u>	<u>This 24-month limit shall not limit eligibility for child care services in Stage Three.</u>
.2	Income Eligibility	Former CalWORKs clients shall be eligible for Stage One child care services if monthly income, adjusted for family size, does not exceed 75 percent of the State Median Income, as specified in Education Code Section 8263.1(a).

CalWORKs Child Care Regulations

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.21 Income Eligibility

To assist with eligibility determination as required by Sections 47-230.13 and 47-230.2 above, those definitions used by the Department of Education cited above are included in this handbook section for the convenience of the user. Education Code Section 8263.1(a) provides that: For purposes of this chapter, "‘income eligible’ means that a family's adjusted monthly income is at or below 75 percent of the state median income, adjusted for family size, and adjusted annually." The statute also provides that the income of recipients of Federal ~~Social~~ Supplemental Security Income and State Supplementary Program (SSI/SSP) benefits shall not be included as income.

.211 Eligible Family Income

Department of Education regulations define family income for the child care programs in California Code of Regulations, Title 5, Sections 18078(a), (g), and (l), as follows:

(a) Adjusted Monthly Income

Section 18078(a) - "‘adjusted monthly income’ means total countable income minus verified child support payments paid by the parent whose child is receiving child development services. Except for child support payments paid by the parent, monthly income shall not be adjusted because of voluntary or involuntary deductions. When income fluctuations occur, the adjusted monthly income shall be computed by averaging the total adjusted income received during the twelve (12) months immediately preceding the month in which the application for services is signed;"

(b) Income Fluctuation

Section 18078(g) - "‘income fluctuation’ means income which varies because of income such as bonuses, commissions, overtime, lottery winnings or migrant agricultural work or other seasonal employment;" and

(c) Total Countable Income

Section 18078(l) - "‘total countable income’ means income that does not include the following;"

(1) Earnings of a Minor

"(1) Earnings of a child under age eighteen (18) years;"

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- | | |
|------------------------------------|---|
| (2) Monies not for Living Expenses | "(2) Loans, grants, and scholarships obtained under conditions that preclude their use for current living costs;" |
| (3) Student Grants and Loans | "(3) Grants or loans to students for educational purposes made or insured by a state or federal agency;" |
| (4) Work Allowances | "(4) Allowances received for uniforms or other work required clothing, food and shelter;" |
| (5) Self- Employment Expenses | "(5) Business expenses for self-employed family members." |

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.22 SSI/SSP Income

The income of a recipient of federal ~~Social~~ Supplemental Security Income and State Supplementary Program (SSI/SSP) benefits shall not be counted as income for the purposes of calculating the amount of the family fee.

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.221 Family Fee

The fee schedule for families using child care and development services is that established by the Superintendent of Public Instruction and published by the California Department of Education (CDE) as required by the Education Code. Section 8263(f) of the Education Code provides as follows: "The superintendent shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter. The income of a recipient of federal supplemental security income benefits pursuant to Title XVI of the Federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program benefits pursuant to Title XVI of the Federal Social Security Act and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code shall not be included as income for the purposes of determining the amount of the family fee. . . "

.23 Family Size

For purposes of administering general child care programs, the Department of Education defines

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family size in California Code of Regulations, Title 5, Sections 18100(a) and (b) as follows:

- | | | |
|------|--------------------------|--|
| .231 | Related Adults | Section 18100(a) - "Family size shall be determined by the number of adults and children related by blood, marriage, or adoption who comprise the household in which the child is living." |
| .232 | Other Adults in the Home | Section 18100(b) - "When an adult living in the household is neither the parent of the child nor the spouse of the parent, the adult and the adult's children, if any, shall be excluded from the calculation of family size." |

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 9858c(c)(5); 42 U.S.C. 9858n(4)(B); 45 CFR 98.20(a)(2); 45 CFR 98.42; Sections 8351, 8263 and 8263.1, Education Code; Sections 11323.2 and 11450.12, Welfare and Institutions Code; Budget Act: AB 107, Chapter 282, Statutes of 1997, Item 6110-196-0001, Provisions 13 and 14; ~~California Code of Regulations, Title 5, Division 1, Chapter 19, Subchapter 3, Article 1, Section 18078 and Article 3, Section 18100.~~

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Adopt Section 47-240 to read:

47-240 Calculation of Family Fee for Stage One Clients 47-240

.1 Calculation of Family Fee for Stage One Clients

For purposes of calculating the amount of the family fee, family size and income shall be determined pursuant to the requirements of Education Code Section 8263. The requirements for determining family income are summarized in Sections 47-230.21 through 47-230.211(c)(5) above. The requirements for determining family size are summarized in Sections 47-230.22 through 47-230.232 above.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 8263 and 8263.1, Education Code; ~~California Code of Regulations, Title 5, Division 1, Chapter 19, Subchapter 3, Article 1, Section 18078 and Article 3, Section 18100.~~

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1) Adopt Section 47-260 to read:

2) Amend Section 47-260 to read:

47-260	Eligible Providers	47-260
.1	Eligible Child Care Provider Requirements	The child care provider shall meet all of the following requirements:
.11	18 years or Older	Be 18 years old or older.
.12	Licensing Requirement	Have a child care license or be exempt from child care licensing requirements, as specified in the California Code of Regulations, Title 22, Division 12, Chapter 1.
.13	Health and Safety Requirement	Meet or be exempt from health and safety requirements, as specified in <u>Chapter 47-600, Trustline and Health and Safety Requirements.</u>
.14	Trustline Requirement	Apply for or be registered for Trustline or be exempt from Trustline Registry, as specified in Chapter 47-600.
.2	Parental Choice	Clients shall have choice in selecting child care providers. Licensed child care and child care exempt from licensure are valid parental choices of care for all clients of the Stage One child care program.
.3	Eligible Child Care Provider Limitations	Payment shall not be made for child care services when care is provided by parents, legal guardians, or members of the assistance unit.
.4	Exempt Provider Information	If the county or a contractor pays for child care services to a license-exempt provider, all of the following information about the license-exempt provider shall be on file with the county or the contractor:
.41	Name, Address, and Telephone Number	The name, address and, if available, a telephone number of the child care provider.
.42	Where Care is Provided	The address and, if available, a telephone number where child care is to be provided.

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- .43 Hours of Care and Charges The hours child care is to be provided and the charge for this care.
- .44 Social Security Number Social Security Number. Provision of the social security number is mandatory to enable the county to comply with the federal reporting requirements for an unduplicated count of child care providers under the Child Care and Development Fund. The county shall inform the provider that provision of the social security number is mandatory, and the uses that will be made of this number.
- .45 Character Reference The names, addresses, and telephone numbers of two character references.
- .46 Identification A copy of a valid California driver's license or other identification to establish that the child care provider is at least 18 years old.
- .47 Required Statement A statement from the provider as to her or his health education, experience or other qualification, criminal record, and names and ages of other persons in the home or providing child care.
- .48 Relationship Relationship of the child care provider to each eligible child.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 9858i(a)(2)(A); 42 U.S.C. 9858c(c)(2)(A)(ii) and (c)(2)(H); 42 U.S.C. 9858n; 45 CFR 98.30; Section 76 of the Privacy Act of 1974 (5 U.S.C. Section 552a Note); Sections 8208.1, 8212, 8216, and 8357, Education Code; Sections 1596.792 and 1596.871, Health and Safety Code; Sections 11320.3 and 11324, Welfare and Institutions Code.

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1) Adopt Chapter 47-300 and Section 47-301 to read:

2) Amend Section 47-301 to read:

CHAPTER 47-300 Responsibilities of the County

47-301 Administration of Child Care Services

47-301

.1 County Welfare Department Responsibility

Counties shall inform families of the availability of child care subsidies and ensure that families have access to child care subsidies whenever the need for child care occurs resulting from employment or participation in any county-approved activities.

.2 Referral for Child Care Services

The county shall refer clients needing child care services to the local child care resource and referral program.

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.21 Local Resource and Referral Responsibility

The local resource and referral program assists families in establishing stable child care arrangements as soon as possible. These include licensed and license-exempt care.

.22 Colocation of Local Resource and Referral Staff

Local Resource and Referral staff are required to colocate with the county's case management offices or arrange other means of swift communication with parents and case managers.

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.23 Information Sharing

The county shall provide information about the client to the agency administering Stage Two or Three child care to establish eligibility for child care services and to allow the agency to provide child care to the family. This information may be shared with other entities not administering the program when the client has consented in writing that the information may be released.

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.231 Confidentiality

AB 1542, Chapter 270, Statutes of 1997, did not change the confidentiality provisions in Welfare and

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Institutions Code Section 10850. All client information is kept confidential and is not open to examination except for purposes directly connected with the administration of public social services, or as otherwise authorized. Alternative Payment Programs (APP), Resource and Referral Programs and child care providers are an integral part of Stage One child care service delivery. Client confidentiality would not be violated as long as the communication with any of these entities is directly related to providing Stage One child care services, or transition to Stage Two or Stage Three. In exchanging client information for purposes of administering the seamless child care program, each of these agencies are bound by the same confidentiality requirements.

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.34 Transitioning Clients

The counties shall manage a client's transition from Stage One to Stage Two or Stage Three when the county determines that the family's situation is stable. The client's child care shall continue in Stage One until child care is provided in Stages Two or Three, unless the family is otherwise ineligible.

.341 Stage One Time Limit

A client shall be served in Stage One for a maximum of six months unless the family's situation is not stable, or child care is not available in Stage Two or Three.

.342 Extension of Six-Month Time Limit

The county shall ~~have the option to~~ extend the six-month time limit if the county has not determined stability or if child care is not available in Stage Two or Stage Three.

~~.33 Time Limits in Stage One~~

~~Former CalWORKs clients who cannot be transitioned from Stage One because no child care services are available in Stage Two or Stage Three, are eligible to receive a total of no more than 24 months of child care services in Stage One and/or Stage Two for each incidence of leaving cash aid, if otherwise eligible.~~

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- .45 Placement on Eligibility Lists for Subsidized Child Care Stage One clients should be referred for placement on eligibility lists for CDE subsidized child care as soon as possible.
- .56 Referral Priority for Stages Two and Three Former CalWORKs clients should be referred for transition to Stage Two and Stage Three eligibility lists before the county refers other Stage Two or Three eligible clients.

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- .67 Contracts to Provide Stage One Child Care The county shall have the option to contract with public or private child care agencies to provide any or all of the Stage One services.
- .671 Compliance With Regulations Public or private child care agencies, including those that contract with the county to provide Stage One child care services shall comply with ~~these child care regulations~~ Division 47.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 9801 Note (b)(4); 42 U.S.C. 9858e; 45 CFR 205.50; 45 CFR 98.51(a)(2)(i); Sections 8212, ~~8212(b)~~, 8350, 8351, 8352, 8354 and 8358.5, Education Code; Sections 10540, 10850, 11323.4(f) and 11323.8, Welfare and Institutions Code.

CalWORKs Child Care Regulations

1) Adopt Section 47-320 to read:

2) Amend Section 47-320 to read:

47-320	Information Collection	47-320
.1	County Responsibility	The county shall obtain from the client information to determine child care eligibility and process payments for child care services. (<u>See Section 40-126.35</u>)
.2	Client Responsibility	The following information shall be provided by the client:
.21	Child's Identifying Information	Name, age, date of birth, ethnic origin and gender of each child requiring care.
.22	School Hours	School hours of each child, if applicable.
.23	Hours of Care	Hours of care needed for each child.
.24	Provider Information	Name, address and, if available, a telephone number of the child care provider selected by the client.
.25	Child's Disability	Information needed to obtain verification as specified in Section 41-430.2 about any child 11 years of age or older for whom care is requested due to a physical, mental or developmental disability or other similar condition.
.26	Court Supervision	Information about any child 11 years of age or older for whom care is requested because the child requires care or supervision because she or he is under court supervision.
.27	Change in Family Size or Income	Information about changes in family size and composition or changes in family income.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 9858i(a)(2)(A) and (a)(2)(E); 45 CFR 98.20(a)(1)(ii); 45 CFR 98.71(a) and (b); Sections 8208.1, 8263, 8352, and 8357 ~~and 8263~~, Education Code; Sections ~~601, 602~~, 11054 and 11323.2, Welfare and Institutions Code.

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1) Adopt Chapter 47-400 and Section 47-401 to read:

2) Amend Section 47-401 to read:

CHAPTER 47-400 Payment for Child Care Services

47-401 Child Care Payment Limits

47-401

.1 Maximum Payment Rate

The maximum payment rate for all Stage One child care shall be care costing no more than 1.5 market standard deviations above the mean cost of care for the region where care is provided.

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.11 Payment Basis

Counties ~~may~~ shall calculate payments for child care on a monthly basis, weekly basis, daily basis or hourly basis, depending on the client's needs and the contractual terms used by the child care provider to charge other members of the public ~~for receiving~~ the same services.

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.2 Payment Limits

Payment for Stage One child care services shall not exceed the fee charged to other members of the public ~~for receiving~~ the same service.

.21 Exception to Payment Limits

Counties shall not be bound by the rate limit described in Section 47-401.1 when there are, in the region, no more than two child care providers of the type needed by the recipient of child care services provided under this Division.

~~.22 Retroactive Payments~~

~~Payment for child care services shall not be made for child care services provided prior to the date of applying for or requesting Stage One child care.~~

.3 Co-Payment

A client may choose a child care provider who charges a fee higher than the maximum payment rate. The county shall not pay those child care costs that are in excess of the maximum payment rate. The client is responsible for those costs.

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- .4 Hours of Care
The county shall pay for child care on behalf of the client during the following times:
- .41 Participation Hours
When a client is participating in county-approved activities;
- .42 Work Hours
When the client is working;
- .43 Commute Hours
When the client commutes;
- .44 Ill Child
At county option, when a child is ill and requires care from a different child care provider;
- .45 Other Required Activities
At county option, when care is necessary for other required activities.
- .5 Exceptions to Hours of Care
The county shall not pay for child care during:
- .51 School Attendance
Time the child is attending school; or
- .52 Other Subsidized Programs
Time the child is receiving care in other subsidized child care programs except for the condition described in Sections 47-401.44 and .45 above.
- .6 Registration Fee
The county shall pay registration fees charged by child care providers, as long as these fees are the same as those charged to other members of the public for the same purpose.
- .61 Maximum Payment Rate
The registration fee plus the regular charge for child care for that month shall not exceed the maximum payment rate.
- .7 Family Fees
Family fees, if any, shall be based on the fee schedule established by the State and shall be paid by the client, at county option, directly to the child care provider or the county.
- .71 Exemption From Family Fee
The county shall exempt from the family fee, at the request of the child welfare services worker, any client whose child or children are receiving child protective services.

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.8 Family Fee Schedule

The Family Fee Schedule, established by the
Superintendent of Public Instruction is as follows:

FAMILY FEE SCHEDULE September 1998

Family Pays			Family Size and Income Level										
Hourly	Part-time Daily	Full-time Daily	1-2	3	4	5	6	7	8	9	10	11	12
0.20	1.00	2.00	1755	1881	2090	2424	2758	2821	2884	2946	3009	3072	3134
0.25	1.25	2.50	1825	1956	2173	2521	2868	2934	2999	3064	3129	3194	3260
0.30	1.50	3.00	1896	2031	2257	2618	2979	3046	3114	3182	3250	3317	3385
0.35	1.75	3.50	1966	2106	2340	2715	3089	3159	3230	3300	3370	3440	3510
0.40	2.00	4.00	2036	2181	2424	2812	3199	3272	3345	3418	3490	3563	3636
0.45	2.25	4.50	2106	2257	2507	2909	3310	3385	3460	3535	3611	3686	3761
0.53	2.63	5.25	2176	2332	2591	3006	3420	3498	3576	3653	3731	3809	3886
0.60	3.00	6.00	2247	2407	2675	3102	3530	3611	3691	3771	3851	3932	4012
0.68	3.38	6.75	2317	2482	2758	3199	3641	3723	3806	3889	3972	4054	4137
0.75	3.75	7.50	2387	2558	2842	3296	3751	3836	3922	4007	4092	4177	4263
0.83	4.13	8.25	2457	2633	2925	3393	3861	3949	4037	4125	4212	4300	4388
0.90	4.50	9.00	2527	2708	3009	3490	3972	4062	4152	4243	4333	4423	4513
0.98	4.88	9.75	2598	2783	3092	3587	4082	4175	4268	4360	4453	4546	4639
1.01	5.05	10.10	2633	2821	3134	3636	4137	4231	4325	4419	4513	4607	4701

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- .9 Services Provided During ~~Other Periods of~~ Excused Absences
~~Nonparticipation~~
- Counties shall have the option to pay for child care during excused absences of the child or the client.

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.91 Excused Absences

Excused absences may include, but are not limited to, illness or quarantine of the child or client, court ordered visitations, family emergencies, or court appearances.

.92 Fixed Schedule

8

Payment for absences may include payments to the child care provider who has a policy that child care is on a fixed schedule, whether the child attends or not.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 9858c; 45 CFR 98.43; Sections 8202(g)(3), 8208, ~~8208(f)(3)~~, 8208.1, 8221, 8222, 8263, 8351, and 8357 ~~and 8263~~, Education Code; Sections 11320.3, 11323.2, 11323.4 and 11323.8, Welfare and Institutions Code.

CalWORKs Child Care Regulations

1) Adopt Section 47-420 to read:

2) Amend Section 47-420 to read:

47-420	Payment of Child Care Costs	47-420
.1	Child Care Payments to Providers	The county shall issue child care payments on behalf of the client directly to the child care provider <u>except as provided in Section 47-420.2.</u>
.2	Child Care Payments to Clients	Child care payments may be made directly to the client, as the employer, if child care is provided in the home of the client. The county shall inform the client of his/her corresponding legal and financial reporting requirements.
.21	Information Needed for Payment	The county shall issue a child care payment only when the client provides the following information on a monthly basis:
.211	Hours of Care	Number of hours of care given per child.
.212	Cost Per Child	Cost per child as verified by the childcare provider's rate schedule.
.213	Signatures	Signatures provided by both the child care provider and the client under penalty of perjury, verifying the accuracy of the information.
.22	Timing of Payments to Providers	At county option, the child care provider may be paid in advance or after the services are provided, depending on how the child care provider charges the public for the same services.
.3	Notices for Payment	The county shall notify the client whenever there is an approval, denial, change or discontinuance in the amount of subsidy paid by the county for child care, <u>as required by Sections 22-001(a)(1), 22-001(t)(1), 22-071 and 22-072.</u>
.31	State Hearings	Notices for payment of child care shall contain information on the client's right to a state hearing as required by Sections 22-001(a)(1) and 22-071.1.

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.32 Child Care Pending the Hearing Decision

When a client requests a hearing within the period of timely notification (see Section 22-022.5) to appeal a suspension, reduction, or termination of CalWORKs child care, or a change in the method of providing such services, the client shall ~~not~~ be entitled to a continuation of CalWORKs child care in the same amount or form pending the hearing decision. ~~The participant shall be entitled to the child care services only at the level and in the form authorized by the county action under appeal.~~ The client shall not be entitled to such a continuation when the basis of action appealed is the health and safety of the child, including failure of the provider to satisfy health and safety requirements pursuant to Section 47-630, failure of the provider to obtain Trustline Registry pursuant to Chapter 47-600, or if the provider is denied payment pursuant to Section 47-420.4.

.4 Denial of Payment

The county shall deny payment for child care services that are exempt from licensure if the child care case file contains credible information that the provider has been convicted of a crime specified in the Penal Code Sections referenced in Health and Safety Code Section 1596.871(f)(1).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 98.43; ~~45 CFR 255.2(h)(2)~~; Sections 8352 and 8357, Education Code; Section 1596.871(f)(1), Health and Safety Code; Sections 10950, 11054, 11323.2, 11323.8, and 11324(~~ec~~), Welfare and Institutions Code.

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.17 Overpayments Resulting From Fraud

Overpayments resulting from suspected fraud on the part of the client or the child care provider shall be referred for investigation, subject to the county's criteria for fraud referrals.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: ~~45 CFR 255.4(j)(4); and~~ Sections 11320.3, 11323.2, 11323.4 and 11324, Welfare and Institutions Code

CalWORKs Child Care Regulations

Repeal Entire Chapter 89-700 (Sections 89-701 through 89-740):

CHAPTER 89-700 CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP) [REPEALED]

89-701 THE CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP) [REPEALED]	89-701
89-705 DEFINITIONS [REPEALED]	89-705
89-710 PROGRAM ELIGIBILITY [REPEALED]	89-710
89-715 PAYMENT ELIGIBILITY [REPEALED]	89-715
89-720 CHILD CARE PAYMENT COMPUTATION [REPEALED]	89-720
89-725 CAAP PARTICIPANT'S RESPONSIBILITIES [REPEALED]	89-725
89-730 COUNTY RESPONSIBILITIES [REPEALED]	89-730
89-735 UNDERPAYMENTS AND OVERPAYMENTS [REPEALED]	89-735
89-740 DATA COLLECTION [REPEALED]	89-740